



Docket No.: 246323US0CONT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 10/748,149
Applicants: Masahiko KURAUCHI, et al.
Filing Date: December 31, 2003
For: ANIMAL BREEDING MATERIAL OR ARTICLE
Group Art Unit: 3644
Examiner: Abbott, Y.R.

SIR:

Attached hereto for filing are the following papers:

Response to Restriction Requirement

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Vincent K. Shier, Ph.D.

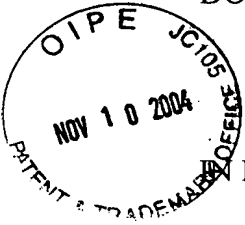
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

RE APPLICATION OF:

:

Masahiko KURAUCHI, et al.

: GROUP ART UNIT: 3644

SERIAL NO.: 10/748,149

:

FILED: DECEMBER 31, 2003

: EXAMINER: ABBOTT, Y. R.

FOR: ANIMAL BREEDING MATERIAL OR ARTICLE

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313-1450

SIR:

Responsive to the Official Action dated October 12, 2004, Applicants elect, with traverse, Group I, Claims 1-12, for further prosecution.

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-12, drawn to an animal breeding material; and

Group II: Claims 13-19, drawn to a method of making an animal breeding material or article.

Applicants elect, with traverse, Group I, Claims 1-12, for further prosecution.

The Office has characterized the inventions of Groups I and II as related as process of making and product made. Citing MPEP §806.05(f), the Office concludes that the process can be used to "make a treated paper product, fabric to be worn, or flooring material (i.e., not used for animal breeding.)" However, there is no evidence of record to show that the alleged products can be made by the claimed process as the Office has alleged. Accordingly,

Applicants respectfully request withdrawal of the Restriction Requirement.

Applicants respectfully traverse on the additional grounds that the Office has not shown that a burden exists in searching the entire application.

Further, MPEP §803 states as follows:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all claims would not constitute a serious burden on the Office.

Additionally, MPEP §821.04 states:

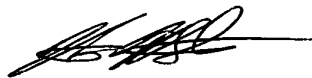
...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants note that should the elected group be found allowable, non-elected process claims should be rejoined.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



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